

House Bill 115
March 6, 2007
Presented by M. Jeff Hagener
Senate Fish and Game Committee

SENATE FISH AND GAME
EXHIBIT NO. 2
DATE 3-6-07
BILL NO. HB 115

Mr. Chairman and committee members, I am Jeff Hagener, Director of Montana of Fish, Wildlife & Parks (FWP). I am here today in support of HB 115.

The requirements for the posting and publication of orders, rules and regulations for FWP, codified in 87-1-202, MCA, are outdated and, in some cases, impractical. They were meant for a simpler time when nailing a notice on a tree or tacking it on a bulletin board at the Court House was sufficient public notice. Times have changed and nothing has changed more than the way we communicate. This bill recommends changing the statute regarding the requirements for posting and publication of various FWP orders, rules and regulations to reflect modern methods of communication.

FWP adopts hunting, fishing, trapping, and land use rules annually or biennially under an exception to the more time-consuming requirements of the Montana Administrative Procedures Act. Under current law, rules of "general application" are valid once they are published in any appropriate manner as determined by FWP. FWP complies with this law by publishing our hunting, fishing and trapping rules in pamphlet form and on our website. However, rules of "local application" must be published in the local newspaper and posted in three conspicuous locations in the area where they apply.

The distinction between the types of rules creates a problem because there is room for debate as to what are rules of "general application" and what are rules of "local application." For example, are the regulations for a specific hunting district rules of "local application?" If so, this would require FWP to publish hunting district regulations in local newspapers and post the season and bag limit for each hunting district at three conspicuous locations in the district. In fact, some attorneys have raised FWP's failure to post hunting regulations in the district as a defense in several ongoing criminal prosecutions.

HB 115 proposes that the requirement for publication of all regulations be met by the printing of annual or biennial regulations (hunting, fishing, trapping, and land use) in pamphlet format. These pamphlets would be available at all FWP offices and at license providers and on FWP's website. This is how the regulations are made available to the public now.

The bill also addresses site-specific land use regulations, such as speed limits or parking restrictions in state parks, by requiring signs at the site.

For those hunting, fishing or trapping rules or management decisions that, by their very nature, must be communicated in a very short time to the public, FWP is provided in the bill with the discretion to use FWP's website, a telephone hotline, or a similar method. This type of notification is tailored to setting management seasons or game damage hunts and for closing a hunting district when the quota is reached for the hunting of a species. Finally, emergency closures would be made in the most practical and effective manner under the circumstances.

In summary, the bill will replace vague and potentially impractical methods of communicating to the public the hunting, fishing, trapping, and land use regulations with specific, practical and effective publications requirements. We urge your support of HB 115. Thank you.